

NEWPORT BEACH PLANNING COMMISSION MINUTES
Council Chambers – 3300 Newport Boulevard
Thursday, June 9, 2011
REGULAR MEETING
4:00 p.m.

A. CALL TO ORDER - The meeting was called to order at 4:00 p.m.

B. PLEDGE OF ALLEGIANCE – Led by Commissioner Eaton

C. ROLL CALL

PRESENT: Ameri (arrived late), Eaton, Hawkins, McDaniel, Toerge (arrived late), and Unsworth

ABSENT (EXCUSED): Hillgren

Staff Present: Kimberly Brandt, Community Development Director, James Campbell, Principal Planner, Gregg Ramirez, Senior Planner, Leonie Mulvihill, Assistant City Attorney, David Keely, Senior Civil Engineer, Fern Nueno, Assistant Planner, Erin Steffen, Planning Technician, and Marlene Burns, Administrative Assistant

D. PUBLIC COMMENTS – None.

E. REQUEST FOR CONTINUANCES

ITEM NO. 2 Pemstein Residence Minor Use Permit and Variance (PA2010-173)
2430 Holiday Road

Staff reported that the applicant requested that this item be continued to July 7, 2011.

Chair McDaniel opened the public hearing. Noting no individuals present to provide testimony, the Chair
Chair McDaniel closed the public hearing.

Motion made by Commissioner Toerge and seconded by Commissioner Unsworth, and carried (5 – 0) to continue this item to July 7, 2011.

AYES: Eaton, Hawkins, McDaniel, Toerge, and Unsworth

NOES: None.

ABSENT: Ameri (arrived late), Hillgren

ABSTAIN: None.

ITEM NO. 4 Newport Beach Country Club – Golf Realty Fund (PA2005-140)
1600 & 1602 E. Coast Highway

Staff recommended that this item be continued to August 4, 2011, due to the change in the Planning Commission membership.

Chair McDaniel opened the public hearing. Noting no individuals present to provide testimony, the Chair
Chair McDaniel closed the public hearing.

Motion made by Commissioner Toerge and seconded by Commissioner Hawkins, and carried (5 – 0) to continue this item to August 4, 2011.

AYES: Eaton, Hawkins, McDaniel, Toerge, and Unsworth
NOES: None.
ABSENT: Ameri (arrived late) and Hillgren
ABSTAIN: None.

ITEM NO. 5 Newport Beach Country Club – International Bay Clubs, Inc. (PA2008-152)
1600 E. Coast Highway

Staff recommended that this item be continued to August 4, 2011, due to the change in the Planning Commission membership.

Chair McDaniel opened the public hearing. Noting no individuals present to provide testimony, the Chair
Chair McDaniel closed the public hearing.

Motion made by Commissioner Toerge and seconded by Commissioner Hawkins and carried (5 – 0) to continue this item to August 4, 2011 at 4:00 p.m.

AYES: Eaton, Hawkins, McDaniel, Toerge, and Unsworth
NOES: None.
ABSENT: Ameri and Hillgren
ABSTAIN: None.

F. CONSENT ITEMS

ITEM NO. 1 Minutes of May 19, 2011

A motion was made by Commissioner Hawkins, seconded by Commission Unsworth and carried (5 – 0) to approve the minutes as corrected.

AYES: Hawkins, McDaniel, Toerge, and Unsworth
NOES: None.
ABSENT: Hillgren, Ameri
ABSTAIN: Eaton

G. PUBLIC HEARING ITEMS

ITEM NO. 3 Dry Dock Restaurant (PA2011-005)
2601 West Coast Highway

Staff report was provided by Assistant Planner Fern Nueno.

The applicant requests approval of a conditional use permit for a food service restaurant with late hours, live entertainment, alcohol sales, outdoor dining, and delivery. The application also includes a request for a parking management plan to address off-site parking, valet, and an adjustment to the off-street parking requirements. The proposed hours of operation for dining and delivery are 11:00 a.m. to 2:00 a.m., Monday through Friday, and 9:00 a.m. to 2:00 a.m. on Saturday and Sunday with the outdoor dining patio closing at 1:30 a.m. daily.

In response to Commission questions, Assistant Planner Nueno and Staff approximated the occupancy limit at 162 with the outdoor dining expansion, stated that the Zoning Code does not require the Commission to review the occupancy limit when looking at parking, clarified that the applicant proposes some interior changes to the kitchen area as well as an expansion to the outdoor dining patio, mentioned

that the Resolution has a one (1) year review period after which the Commission can reanalyze the parking agreement, addressed questions regarding the parking management plan, on-site and off-site parking requirements and valet operations, referred to the Municipal Code Standards regarding noise control requirements and live entertainment operations (Conditions 53 and 10 respectively), clarified Condition 21 regarding the proposed 10-foot wide irrevocable pedestrian easement along the bay front, stated that Condition 19 prohibits all delivery trucks from loading/unloading on West Coast Highway and explained the statute and regulations of the operator's license for activities held at the restaurant after 11:00 p.m.

Dennis O'Neil, representing Jeff Reuter and G.E.P Enterprise Group (the applicant), spoke regarding compliance with the outdoor dining patio requirements, the types of live entertainment expected in the restaurant, alcohol sales, delivery truck parking, the parking management plan and parking requirements establishing one (1) parking space for every forty (40) square feet of net public area (Municipal Code Section 20.40.060), valet parking and the twenty (20) off-site parking spaces. He stated that the applicant agrees with the findings supporting the project approval, proposed that Condition 3 include the hours of operations between 9:00 a.m. and 2:00 a.m. on Saturday and Sunday and requested that the outdoor dining patio be closed no later than 1:30 a.m. instead of 12 a.m. He addressed concerns regarding the long term availability of the off-site parking facility, approximated nine (9) employees per shift, mentioned compliance with the City's noise standards stating that the windows shall remain closed at all times and stated that they are in agreement with the one (1) year review.

Discussion ensued between the Commissioners, Staff and the applicant regarding the conditions of the one (1) year review.

Chair McDaniel opened the public hearing.

Bob Baker, resident, referenced a letter he submitted asking the Commissioners to postpone their decision at tonight's meeting allowing for sufficient time to gather and present real evidence including noise decibel readings, stated his opposition to the granting of the Conditional Use Permit and expressed his concerns regarding alcohol sales, the parking management plan and the potential noise impact on adjacent homes.

Julie Auckerman, resident, expressed her concerns regarding the ten (10) boat spaces, the danger of potential accidents caused by drunk and disorderly patrons travelling by boat, noise pollution, the impacts of a potential easement built over the bay and requested the Commissioners not to approve the late night operation of a bar.

Commissioner Hawkins excused himself from the meeting at 5:49 p.m. to attend a funeral. He requested that the meeting be adjourned in memory of Susan Trager.

Eric Auckerman, resident, expressed his concern about boats passing through Lido Bay specifically regarding noise impacts after 11:00 p.m., in-coming and out-going boat traffic, drunk and disorderly patrons travelling by boat and response by Harbor Patrol.

Rose Barrantes, Commercial Property Manager, expressed her concerns regarding parking in the off-site parking lot and its effect on other businesses, valet operations and its impact on traffic and made recommendations regarding public parking.

Sheila Baker, resident, asked whether the windows would be dual or triple glazed (inoperable), raised concern regarding the outdoor dining patio, noise, alcohol sales, late-night deliveries and loud live entertainment.

Chair McDaniel closed the public hearing.

Dennis O'Neil, representing the applicant, responded by clarifying that the live entertainment would only occur during the hours of 2:00 p.m. to 7:00 p.m. on Saturday and Sunday, stated that the outdoor dining patio faces Pacific Coast Highway, addressed noise concerns, mentioned the required Police Department's operator's license and noted the applicants' efforts to mitigate every concern that had been raised.

Discussion ensued between the Commissioners, Staff and the applicant regarding valet parking and hours of operation, permanent closure of the windows facing the bay, boat slip regulations, pedestrian walkway easement, compliance with Conditions 10 and 53 regarding noise control and discussed the cost of annual parking permits.

A motion was made by Commissioner Toerge and seconded by Commissioner Ameri to adopt the resolution approving Conditional Use Permit No. UP2011-001 with modifications to the following conditions; Condition 3 allow for the opening of the restaurant at 9:00 a.m. on Saturday and Sunday, Condition 4 require the outdoor dining patio to close no later than 1:30 a.m., Condition 7 clarify that the outdoor dining patio should be limited to 429 square feet, and the addition of the following conditions; Condition 65 that prohibits the renting of parking slips on a permanent basis so that they are always available for customer use, Condition 66 requiring that all employees obtain an annual parking permit and park offsite, and Condition 67 requiring upcoming parking agreement be presented to the Planning Commission at the annual review at which time another review could be requested by the Commission.

Assistant Planner Nueno clarified that Conditions 3 and 4 should be combined and tied to the operator's license and that Condition 7 should include the statement of 429 square feet or 25%, whichever is less.

Discussion ensued between the Commissioners, Staff and the applicant regarding on-site and off-site parking, valet operations, potential modifications of the parking agreement, the annual review and clarifications were made for Conditions 2, 10, and 53.

Commissioner Toerge added to his motion a statement to be included in Condition 2 giving the Commission the opportunity to ask for additional annual reviews if necessary at the one (1) year review as well as removing Fact 3 from the Resolution and including it in the Facts in Support of Finding (B3). Commissioner Ameri seconded the additions.

Dennis O'Neil, representing the applicant, stated that he agreed with the changes made to the Conditional Use Permit.

Motion made by Commissioner Toerge and seconded by Commissioner Ameri, and carried 4 – 1 (Unsworth – NO) to Adopt a resolution approving Conditional Use Permit No. UP2011-001 with the following condition modifications; a statement to be included in Condition 2 giving the Commission the opportunity to ask for additional annual reviews if necessary at the one (1) year review, combine Condition 3 which allows for the opening of the restaurant at 9:00 a.m. on Saturday and Sunday and Condition 4 which requires the outdoor dining patio to close no later than 1:30 a.m. and tie both to the operator's license, Condition 7 clarify that the outdoor dining patio should be limited to 429 square feet or 25% whichever is less, the addition of Condition 65 that prohibits the renting of parking slips on a permanent basis so that they are always available for customer use, the addition of Condition 66 requiring that all employees obtain an annual parking permit and park offsite, the addition of Condition 67 requiring the upcoming parking agreement be presented to the Planning Commission at the annual review at which time another review could be requested by the Commission, and removing Fact 3 from the Resolution and including it in the Facts in Support of Finding (B3).

AYES: Ameri, Eaton, Toerge, McDaniel
NOES: Unsworth

ABSENT (EXCUSED): Hawkins (left meeting early), Hillgren
ABSTAIN: None

H. NEW BUSINESS – None.

I. STAFF AND COMMISSIONER ITEMS

ITEM NO. 6 Planning Commission reports.

The Malarkey's Irish Pub applicant withdrew his application.

ITEM NO. 7 Announcements on matters that Commission members would like placed on a future agenda for discussion, action, or report. – None.

ITEM NO. 8 Request for excused absences. - None.

ADJOURNMENT - The Planning Commission adjourned at 6:36 p.m. to 6:30 p.m. on June 23, 2011.